
Colorado Revised Statutes

Title 18 Professions and Occupations

Article 18

Uniform Controlled Substances Act of 1992

Effective July 1, 2012

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PART 1

DEFINITIONS

18-18-101. Short title.

This article shall be known and may be cited as the "Uniform Controlled Substances Act of 1992".

18-18-102. Definitions.

As used in this article:

(1) "Administer", unless the context otherwise requires, means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(a) A practitioner (or, in the practitioner's presence, by the practitioner's authorized agent); or

(b) The patient or research subject at the direction and in the presence of the practitioner.

(2) "Agent" means an authorized person who acts on behalf of or at the direction of a person licensed or otherwise authorized under this article or under part 3 of article 22 of title 12, C.R.S. "Agent" does not include a common or contract carrier, a public warehouseman, or an employee of a carrier or warehouseman.

(3) (a) "Anabolic steroid" means any material, drug, hormonal compound, salt, isomer or salts of isomers of testosterone, or synthetic or natural derivatives of testosterone having pronounced anabolic properties which is used primarily to promote growth of muscle tissue, which includes, but is not limited to, any of the following:

(I) Boldenone;

(II) Chlorotestosterone;

(III) Clostebol;

(IV) Dehydrochlormethyltestosterone;

(V) Dihydrotestosterone;

(VI) Drostanolone;

(VII) Ethylestrenol;

(VIII) Fluoxymesterone;

(IX) Formebolone;

(X) Human chorionic gonadotropin;

(XI) Human growth hormone;

(XII) Mesterolone;

(XIII) Methandienone;

(XIV) Methandranone;

(XV) Methandriol;

(XVI) Methandrestenolone;

(XVII) Methenolone;

(XVIII) Methyltestosterone;

(XIX) Mibolerone;

(XX) Nandrolone;

(XXI) Norethandrolone;

(XXII) Oxandrolone;

(XXIII) Oxymesterone;

(XXIV) Oxymetholone;

(XXV) Stanolone;

(XXVI) Stanozolol;

(XXVII) Testolactone;

(XXVIII) Testosterone;

(XXIX) Trenbolone;

(XXX) Any salt, ester, or isomer of a drug or substance described or listed in this paragraph (a) if that salt, ester, or isomer promotes muscle growth.

(b) (I) Except as provided in subparagraph (II) of this paragraph (b), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for such administration.

(II) If any person prescribes, dispenses, or distributes a steroid described in subparagraph (I) of this paragraph (b) for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of paragraph (a) of this subsection (3).

(4) "Cocaine" means coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this subsection (4).

(5) "Controlled substance" means a drug, substance, or immediate precursor included in schedules I through V of part 2 of this article, including cocaine, marihuana, and marihuana concentrate.

(6) (a) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in or added to schedule I or II and:

(I) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II; or

(II) With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

(b) The term does not include:

(I) A controlled substance;

(II) A substance for which there is an approved drug application, so long as such substance is in its intended and unconverted form;

(III) A substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the "Federal Food, Drug, and Cosmetic Act", 21 U.S.C. sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

(IV) Any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(7) "Deliver" or "delivery", unless the context otherwise requires, means to transfer or attempt to transfer a substance, actually or constructively, from one person to another, whether or not there is an agency relationship.

(8) "Department" means the department of human services.

(9) "Dispense" means to deliver a controlled substance to an ultimate user, patient, or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(10) "Dispenser" means a practitioner who dispenses.

(11) "Distribute" means to deliver other than by administering or dispensing a controlled substance, with or without remuneration.

(12) "Distributor" means a person who distributes.

(13) (a) "Drug" means:

(I) Substances recognized as drugs in the official United States pharmacopoeia, national formulary, or the official homeopathic pharmacopoeia of the United States, or any supplement to any of them;

(II) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals;

(III) Substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and

(IV) Substances intended for use as a component of any substance specified in subparagraph (I), (II), or (III) of this paragraph (a).

(b) The term does not include devices or their components, parts, or accessories.

(14) "Drug enforcement administration" means the drug enforcement administration in the United States department of justice, or its successor agency.

(15) "Immediate precursor" means a substance which is a principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used, or likely to be used, in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(16) "Isomer" means an optical isomer, but in paragraph (e) of subsection (20) of this section and sections 18-18-203 (2) (a) (XII) and (2) (a) (XXXIV) and 18-18-204 (2) (a) (IV) the term includes a geometric isomer; in sections 18-18-203 (2) (a) (VIII) and (2) (a) (XLII) and 18-18-206 (2) (c) the term includes a positional isomer; and in sections 18-18-206 (2) (b) (XXXV) and (2) (c) and 18-18-205 (2) (a) the term includes any positional or geometric isomer.

(17) "Manufacture" means to produce, prepare, propagate, compound, convert, or process a controlled substance, directly or indirectly, by extraction from substances of natural origin, chemical synthesis, or a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(a) By a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(b) By a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(18) "Marihuana" or "marijuana" means all parts of the plant *cannabis sativa* L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin. It does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination if these items exist apart from any other item defined as "marihuana" in this subsection (18). "Marihuana" does not include marihuana concentrate as defined in subsection (19) of this section.

(19) "Marihuana concentrate" means hashish, tetrahydrocannabinols, or any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized, of tetrahydrocannabinols.

(20) "Narcotic drug" means any of the following, however manufactured:

(a) Opium, opium derivative, and any derivative of either including any salts, isomers, and salts of isomers of them that are theoretically possible within the specific chemical designation, but not isoquinoline alkaloids of opium;

(b) Synthetic opiate and any derivative of synthetic opiate, including any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, of them that are theoretically possible within the specific chemical designation;

(c) Poppy straw and concentrate of poppy straw;

(d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(e) Cocaine, or any salt, isomer, or salt of isomer of cocaine;

(f) Cocaine base;

(g) Ecgonine, or any derivative, salt, isomer, or salt of isomer of ecgonine;

(h) Any compound, mixture, or preparation containing any quantity of a substance listed in this subsection (20).

(21) "Opiate" means a substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, opium derivatives, and synthetic opiates. The term does not include, unless specifically scheduled as a controlled substance under section 18-18-201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(22) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(23) "Order" means:

(a) A prescription order which is any order, other than a chart order, authorizing the dispensing of drugs or devices that is written, mechanically produced, computer generated, transmitted electronically or by facsimile, or produced by other means of communication by a practitioner and that includes the name or identification of the patient, the date, the symptom or purpose for which the drug is being prescribed, if included by the practitioner at the patient's authorization, and sufficient information for compounding, dispensing, and labeling; or

(b) A chart order which is an order for inpatient drugs or medications to be dispensed by a pharmacist, or pharmacy intern under the direct supervision of a pharmacist, which is to be administered by an authorized person only during the patient's stay in a hospital facility. It shall contain the name of the patient and of the medicine ordered and such directions as the practitioner may prescribe concerning strength, dosage, frequency, and route of administration.

(24) "Peace officer" shall have the same meaning as set forth in section 16-2.5-101, C.R.S.

(25) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government or governmental subdivision or agency, or any other legal or commercial entity.

(26) "Peyote" means all parts of the plant presently classified botanically as *lophophora williamsii* lemaire, whether growing or not, the seeds thereof, any extraction from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or extracts.

(27) "Pharmacy" means a prescription drug outlet as defined in section 12-22-102 (30.2), C.R.S.

(28) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(29) "Practitioner" means a physician, podiatrist, dentist, optometrist, veterinarian, researcher, pharmacist, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by this state, to distribute, dispense, conduct research with respect to, administer, or to use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(30) "Production", unless the context otherwise requires, includes the manufacturing of a controlled substance and the planting, cultivating, growing, or harvesting of a plant from which a controlled substance is derived.

(31) "Remuneration" means anything of value, including money, real property, tangible and intangible personal property, contract rights, choses in action, services, and any rights of use or employment or promises or agreements connected therewith.

(32) "Researcher" means any person licensed by the department pursuant to this article to experiment with, study, or test any controlled substance within this state and includes analytical laboratories.

(33) "Sale" means a barter, an exchange, or a gift, or an offer therefor, and each such transaction made by any person, whether as the principal, proprietor, agent, servant, or employee.

(34) "State", unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(35) (a) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, sp., or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity, such as the following:

- (I) ¹Cis or trans tetrahydrocannabinol, and their optical isomers;
- (II) ⁶Cis or trans tetrahydrocannabinol, and their optical isomers;
- (III) ^{3,4}Cis or trans tetrahydrocannabinol, and their optical isomers.

(b) Since the nomenclature of the substances listed in paragraph (a) of this subsection (35) is not internationally standardized, compounds of these structures, regardless of the numerical designation of atomic positions, are included in this definition.

(36) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

18-18-103. Special definition - board.

As used in parts 1 and 2 of this article, "board" means the state board of pharmacy. As used in parts 3, 4, 5, and 6 of this article, "board" means the respective licensing board responsible for licensing and registering practitioners or other persons who are subject to registration pursuant to part 3 of this article. For physicians the respective board is the Colorado state board of medical examiners, for podiatrists the respective board is the Colorado podiatry board, for dentists the respective board is the state board of dental examiners, for optometrists the respective board is the state board of optometric examiners, for pharmacists and pharmacies the respective board is the state board of pharmacy, for veterinarians the respective board is the state board of veterinary medicine, and for manufacturers, distributors, and humane societies the respective board is the state board of pharmacy.

PART 2

STANDARDS AND SCHEDULES

18-18-201. Authority to control.

The board shall administer this part 2 and the general assembly, by bill, may add substances to or delete or reschedule substances listed in section 18-18-203, 18-18-204, 18-18-205, 18-18-206, or 18-18-207.

18-18-202. Nomenclature.

The controlled substances listed in or to be added to the schedules in sections 18-18-203, 18-18-204, 18-18-205, 18-18-206, and 18-18-207 are listed or added by any official, common, usual, chemical, or trade name used.

18-18-203. Schedule I.

(1) A substance shall be added to schedule I by the general assembly when:

(a) The substance has high potential for abuse;

(b) The substance has no currently accepted medical use in treatment in the United States; and

(c) The substance lacks accepted safety for use under medical supervision.

(2) Unless specifically excepted by Colorado or federal law or Colorado or federal regulation or more specifically included in another schedule, the following controlled substances are listed in schedule I:

(a) Any of the following synthetic opiates, including any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers of them that are theoretically possible within the specific chemical designation:

(I) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl] -N-phenylacetamide);

(II) Acetylmethadol;

(III) Allylprodine;

(IV) Alphacetylmethadol;

(V) Alphameprodine;

(VI) Alphamethadol;

(VII) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)- 4-(N-propanilido) piperidine);

(VIII) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-4-piperidiny] N-phenylpropanamide);

(IX) Benzethidine;

(X) Betacetylmethadol;

(XI) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4- piperidiny] N-phenylpropanamide);

(XII) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny] N-phenylpropanamide);

(XIII) Betameprodine;

(XIV) Betamethadol;

(XV) Betaprodine;

(XVI) Clonitazene;

(XVII) Dextromoramide;

(XVIII) Diampromide;

(XIX) Diethylthiambutene;

(XX) Difenoxin;

(XXI) Dimenoxadol;

(XXII) Dimepheptanol;

(XXIII) Dimethylthiambutene;

(XXIV) Dioxaphetyl butyrate;

(XXV) Dipipanone;

(XXVI) Ethylmethylthiambutene;

(XXVII) Etonitazene;

(XXVIII) Etoxidine;

(XXIX) Furethidine;

(XXX) Hydroxypethidine;

(XXXI) Ketobemidone;

(XXXII) Levomoramide;

(XXXIII) Levophenacymorphan;

(XXXIV) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

(XXXV) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(XXXVI) Morpheridine;

(XXXVII) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

(XXXVIII) Noracymethadol;

(XXXIX) Norlevorphanol;

(XL) Normethadone;

(XLI) Norpipanone;

(XLII) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]-propanamide);

(XLIII) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(XLIV) Phenadoxone;

(XLV) Phenampromide;

(XLVI) Phenomorphan;

(XLVII) Phenoperidine;

(XLVIII) Piritramide;

(XLIX) Proheptazine;

(L) Properidine;

(LI) Propiram;

(LII) Racemoramide;

(LIII) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);

(LIV) Tilidine;

(LV) Trimeperidine.

(b) Any of the following opium derivatives, including their salts, isomers, and salts of isomers of them that are theoretically possible within the specific chemical designation:

(I) Acetorphine;

(II) Acetyldihydrocodeine;

- (III) Benzylmorphine;
- (IV) Codeine methylbromide;
- (V) Codeine-N-Oxide;
- (VI) Cyprenorphine;
- (VII) Desomorphine;
- (VIII) Dihydromorphine;
- (IX) Drotebanol;
- (X) Etorphine, except hydrochloride salt;
- (XI) Heroin;
- (XII) Hydromorphenol;
- (XIII) Methyldesorphine;
- (XIV) Methyldihydromorphine;
- (XV) Morphine methylbromide;
- (XVI) Morphine methylsulfonate;
- (XVII) Morphine-N-Oxide;
- (XVIII) Myrophine;
- (XIX) Nicocodeine;
- (XX) Nicomorphine;
- (XXI) Normorphine;
- (XXII) Pholcodine;
- (XXIII) Thebacon.

(c) Any material, compound, mixture, or preparation containing any quantity of the following hallucinogenic substances, including any salts, isomers, and salts of isomers of them that are theoretically possible within the specific chemical designation:

(I) 4-bromo-2, 5-dimethoxy-amphetamine (Some trade or other names: 4-bromo-2, 5-dimethoxy-alpha- methylphenethylamine; 4-bromo-2, 5-DMA.);

(II) 2,5-dimethoxyamphetamine (Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.);

(II.5) 2,5-Dimethoxy-4-ethylamphetamine (DOET);

(III) 4-methoxyamphetamine (Some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine, PMA.);

(IV) 5-methoxy-3,4-methylenedioxy amphetamine;

(IV.5) 5-methoxy-N, N-diisopropyltryptamine (5-MeO-DiPT);

(V) 4-methyl-2,5-dimethoxy-amphetamine (Some trade and other names: 4-methyl-2,5-dimethoxy-alpha- methylphenethylamine; DOM; and STP.);

(VI) 3,4-methylenedioxy amphetamine;

(VII) 3,4-methylenedioxymethamphetamine (MDMA);

(VIII) 3,4,5-trimethoxy amphetamine;

(VIII.5) Alpha-methyltryptamine (AMT);

(IX) Bufotenine (Some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2- dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine.);

(X) Diethyltryptamine (Some trade or other names: N,N-Diethyltryptamine; DET.);

(XI) Dimethyltryptamine (Some trade or other names: DMT.);

(XII) Ibogaine (Some trade and other names: (7-Ethyl-6,6B,7,8,9,10,12,13-octahydro-2- methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepine [5,4- b] indole; Tabernanthe iboga.);

(XIII) Lysergic acid diethylamide;

(XIV) Mescaline;

(XV) Parahexyl (Some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9- trimethyl-6H-dibenzo[b,d]pyran; Synhexyl.);

(XVI) Peyote (Meaning all parts of the plant classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, its seeds, any extract from any part of the plant, and every compound, salt, derivative, mixture, or preparation of the plant, or its seeds or extracts);

(XVII) N-ethyl MDA;

(XVIII) N-ethyl-3-piperidyl benzilate;

(XIX) N-hydroxy MDA;

(XX) N-methyl-3-piperidyl benzilate;

(XXI) Psilocybin;

(XXII) Psilocyn;

(XXIII) Tetrahydrocannabinols;

(XXIV) Ethylamine analog of phencyclidine (Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.);

(XXV) Pyrrolidine analog of phencyclidine (Some trade or other names: 1-(1-phenylcyclohexyl)- pyrrolidine, PCPy, PHP.);

(XXVI) Thiophene analog of phencyclidine (Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]- piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP.);

(XXVII) TCPy.

(d) Any material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including any salts, isomers, and salts of isomers of them that are theoretically possible within the specific chemical designation:

(I) Mecloqualone;

(II) Methaqualone.

(e) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(I) Cathinone;

(II) Fenethylamine;

(III) Methcathinone;

(IV) N-ethylamphetamine;

(V) (+) Cis-4-methylaminorex;

(VI) N,N-dimethylamphetamine.

(f) Any material, compound, mixture, or preparation containing any quantity of gamma hydroxybutyrate [GHB], including its salts, isomers, and salts of isomers.

(g) Any material, compound, mixture, or preparation which is a controlled substance analog, the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in this subsection (2) or that was specifically designed to produce an effect substantially similar to or greater than the effect of a controlled substance listed in this subsection (2), all or part of which is intended for human consumption.

(h) Any material, compound, mixture, or preparation containing any quantity of N-benzylpiperazine (BZP), including its salts, isomers, and salts of isomers.

18-18-204. Schedule II.

(1) A substance shall be added to schedule II by the general assembly when:

- (a) The substance has high potential for abuse;
- (b) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
- (c) The abuse of the substance may lead to severe psychological or physical dependence.

(2) Unless specifically excepted by Colorado or federal law or Colorado or federal regulation or more specifically included in another schedule, the following controlled substances are listed in schedule II:

(a) Any of the following substances, however manufactured:

(I) Opium and opium derivative, and any salt, compound, derivative, or preparation of opium or opium derivative, excluding apomorphine, dextrophan, nalbuphine, butorphanol, nalmefene, naloxone, and naltrexone, but including:

- (A) Raw opium;
- (B) Opium extracts;
- (C) Opium fluid;
- (D) Powdered opium;
- (E) Granulated opium;
- (F) Tincture of opium;
- (G) Codeine;
- (H) Ethylmorphine;
- (I) Etorphine hydrochloride;
- (J) Hydrocodone;
- (K) Hydromorphone;
- (L) Metopon;
- (M) Morphine;
- (N) Oxycodone;
- (O) Oxymorphone;
- (P) Thebaine.

(II) Any salt, compound, derivative, or preparation that is chemically equivalent or identical with any of the substances listed in subparagraph (I) of this paragraph (a), but not isoquinoline alkaloids of opium;

(III) Opium poppy and poppy straw;

(IV) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives, and any salt, compound, derivative, or preparation that is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine;

(V) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).

(b) Any of the following synthetic opiates, including any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers of them that are theoretically possible within the specific chemical designation:

(I) Alfentanil;

(II) Alphaprodine;

(III) Anileridine;

(IV) Benzitramide;

(V) Carfentanyl;

(VI) Dihydrocodeine;

(VII) Diphenoxylate;

(VIII) Fentanyl;

(IX) Isomethadone;

(IX.5) Levo-alphacetylmethadol;

(X) Levomethorphan;

(XI) Levorphanol;

(XII) Metazocine;

(XIII) Methadone;

(XIV) Methadone - Intermediate, 4-cyano-2- dimethylamino-4, 4-diphenyl butane;

(XV) Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;

(XVI) Pethidine (meperidine);

- (XVII) Pethidine - Intermediate-A, 4-cyano-1- methyl-4-phenylpiperidine;
- (XVIII) Pethidine - Intermediate-B, ethyl-4- phenylpiperidine-4-carboxylate;
- (XIX) Pethidine - Intermediate-C, 1-methyl- 4-phenylpiperidine-4-carboxylic acid;
- (XX) Phenazocine;
- (XXI) Piminodine;
- (XXII) Propoxyphene (non-dosage forms);
- (XXIII) Racemethorphan;
- (XXIV) Racemorphan;
- (XXV) Sufentanil.

(c) Any material, compound, mixture, or preparation containing any quantity of the following substances, their salts, isomers, or salts of isomers, having a stimulant effect on the central nervous system:

- (I) Amphetamine;
- (II) Methamphetamine;
- (III) Phenmetrazine;
- (IV) Methylphenidate.

(d) Any material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including any salts, isomers, and salts of isomers of them that are theoretically possible within the specific chemical designation:

- (I) Amobarbital;
- (II) Pentobarbital;
- (III) Phencyclidine;
- (IV) Secobarbital;
- (V) Glutethimide.

(e) (I) Repealed.

(II) Nabilone [Another name for nabilone: (+) trans-3-(1,1-demethylheptyl)-6,6a,7,8,10, 10a-hexahydro- 1-hydroxy-6,6-dimethyl-9Hdibenzo [b,d] pyran-9-one].

(f) Any material, compound, mixture, or preparation containing any quantity of the following substances:

(I) Immediate precursor to amphetamine and methamphetamine: phenylacetone (Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.), ephedrine, alpha-phenylacetoacetonitrile, phenylacetic acid, and 1-phenyl-2-nitropropene;

(II) Immediate precursors to phencyclidine:

(A) 1-phenylcyclohexylamine;

(B) 1-piperidinocyclohexanecarbonitrile (PCC);

(C) Piperidine;

(D) Morpholine;

(E) Pyrrolidine;

(III) Remifentanyl hydrochloride.

(g) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which is a controlled substance analog, as defined in section 18-18-102 (6), the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule II of this part 2 or that was specifically designed to produce an effect substantially similar to or greater than the effect of a controlled substance in schedule II of this part 2, all or part of which is intended for human consumption, shall be treated for the purposes of this article as a controlled substance in schedule II of this part 2.

18-18-205. Schedule III.

(1) A substance shall be added to schedule III by the general assembly when:

(a) The substance has a potential for abuse less than the substances included in schedules I and II;

(b) The substance has currently accepted medical use in treatment in the United States; and

(c) The abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

(2) Unless specifically excepted by Colorado or federal law, or Colorado or federal regulation, or more specifically included in another schedule, the following controlled substances are listed in schedule III:

(a) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including any salts, isomers, and salts of isomers of them that are theoretically possible within the specific chemical designation:

(I) Any compound, mixture, or preparation in dosage unit form containing any stimulant substance included in schedule II and which was listed as an excepted compound on August 25, 1971, pursuant to the federal "Controlled Substances Act", and any other drug of the quantitative composition shown in that list for those drugs or which is the same except for containing a lesser quantity of controlled substances;

(II) Benzphetamine;

(III) Chlorphentermine;

(IV) Clortermine;

(V) Phendimetrazine.

(b) Any material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system:

(I) Any compound, mixture, or preparation containing any of the following drugs or their salts and one or more other active medicinal ingredients not included in any schedule:

(A) Amobarbital;

(B) Secobarbital;

(C) Pentobarbital;

(II) Any of the following drugs, or their salts, in suppository dosage form, approved by the federal food and drug administration for marketing only as a suppository:

(A) Amobarbital;

(B) Secobarbital;

(C) Pentobarbital;

(III) Any substance containing any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;

(IV) Chlorhexadol;

(V) Lysergic acid;

(VI) Lysergic acid amide;

(VII) Methyprylon;

(VIII) Sulfondiethylmethane;

(IX) Sulfonethylmethane;

(X) Sulfonmethane;

(XI) Tiletamine and zolazepam or any of their salts (Some trade or other names for a tiletamine-zolazepam combination product: Telazol. Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one. flupyrzapon.).

(c) Nalorphine;

(d) Any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows:

(I) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(II) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(III) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(IV) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(V) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(VI) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(VII) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(VIII) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Anabolic steroids.

(f) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a federal food and drug administration approved drug product [Other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d] pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol];

(g) Ketamine, its salts, isomers, and salts of isomers [Other names for ketamine: (+)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone].

(3) The board may exempt by rule a compound, mixture, or preparation containing any stimulant or depressant substance listed in paragraph (a) or (b) of subsection (2) of this section from the application of all or part of this article if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system and if the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a stimulant or depressant effect on the central nervous system.

18-18-206. Schedule IV - repeal.

(1) A substance shall be added to schedule IV by the general assembly when:

(a) The substance has a low potential for abuse relative to substances included in schedule III;

(b) The substance has currently accepted medical use in treatment in the United States; and

(c) The abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances included in schedule III.

(2) Unless specifically excepted by Colorado or federal law or Colorado or federal regulation or more specifically included in another schedule, the following controlled substances are listed in schedule IV:

(a) Any material, compound, mixture, isomers or salts or isomers, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows:

(I) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(II) Propoxyphene (dosage forms);

(III) Butorphanol;

(b) Any material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including any salts, isomers, and salts of isomers of them that are theoretically possible within the specific chemical designation:

(I) Alprazolam;

(II) Barbitol;

(III) Bromazepam;

(IV) Camazepam;

- (V) Chloral betaine;
- (VI) Chloral hydrate;
- (VII) Chlordiazepoxide;
- (VIII) Clobazam;
- (IX) Clonazepam;
- (X) Clorazepate;
- (XI) Clotiazepam;
- (XII) Cloxazolam;
- (XIII) Delorazepam;
- (XIV) Diazepam;
- (XV) Estazolam;
- (XVI) Ethchlorvynol;
- (XVII) Ethinamate;
- (XVIII) Ethyl loflazepate;
- (XIX) Fludiazepam;
- (XX) Flunitrazepam;
- (XXI) Flurazepam;
- (XXII) Halazepam;
- (XXIII) Haloxazolam;
- (XXIV) Ketazolam;
- (XXV) Loprazolam;
- (XXVI) Lorazepam;
- (XXVII) Lormetazepam;
- (XXVIII) Mebutamate;
- (XXIX) Medazepam;
- (XXX) Meprobamate;
- (XXXI) Methohexital;
- (XXXII) Methylphenobarbital (mephobarbital);

- (XXXIII) Midazolam;
- (XXXIV) Nimetazepam;
- (XXXV) Nitrazepam;
- (XXXVI) Nordiazepam;
- (XXXVII) Oxazepam;
- (XXXVIII) Oxazolam;
- (XXXIX) Paraldehyde;
- (XL) Petrichloral;
- (XLI) Phenobarbital;
- (XLII) Pinazepam;
- (XLIII) Prazepam;
- (XLIV) Quazepam;
- (XLV) Temazepam;
- (XLVI) Tetrazepam;
- (XLVII) Triazolam;
- (XLVIII) Zolpidem;

(c) (I) Any material, compound, mixture, or preparation containing any quantity of the following substance, including any salts, isomers of it that are theoretically possible: Fenfluramine.

(II) This paragraph (c) is repealed upon removal of fenfluramine and its salts and isomers from schedule IV of the federal "Controlled Substances Act" (21 U.S.C. sec. 812; 21 CFR 1308.14).

(d) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

- (I) Cathine;
- (II) Diethylpropion;
- (III) Fencamfamin;
- (IV) Fenpropore;
- (V) Mazindol;
- (VI) Pemoline (including organometallic complexes and chelates thereof);

(VII) Phentermine;

(VIII) Pipradrol;

(IX) SPA ((-)-1-dimethylamino-1,2-diphenylethane);

(e) Any material, compound, mixture, or preparation containing any quantity of the following substances, including their salts and isomers:

(I) Modafinil;

(II) Pentazocine;

(III) Sibutramine;

(IV) Stadol (butorphanol tartrate);

(f) Zaleplon.

(3) The board may exempt by rule any compound, mixture, or preparation containing any depressant substance listed in paragraph (b) of subsection (2) of this section from the application of all or any part of this article if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a depressant effect on the central nervous system.

18-18-207. Schedule V.

(1) A substance shall be added to schedule V by the general assembly when:

(a) The substance has a low potential for abuse relative to substances included in schedule IV;

(b) The substance has currently accepted medical use in treatment in the United States; and

(c) The abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances included in schedule IV.

(2) Unless specifically excepted by Colorado or federal law or Colorado or federal regulation or more specifically included in another schedule, the following controlled substances are listed in schedule V:

(a) Any material, compound, mixture, or preparation containing any of the following narcotic drug and its salts: Buprenorphine;

(b) Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this paragraph (b), which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or

preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(I) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(II) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(III) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(IV) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(V) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(VI) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(c) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers: Pyrovalerone.

PART 3
REGULATION OF MANUFACTURE,
DISTRIBUTION,
AND DISPENSING OF CONTROLLED
SUBSTANCES

18-18-301. Rules.

The board or the department may adopt rules and charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

18-18-302. Registration requirements.

(1) Every person who manufactures, distributes, or dispenses any controlled substance within this state, or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, shall obtain annually or biannually, if applicable, a registration, issued by the respective licensing board or the department in accordance with rules adopted by such board or by the department. For purposes of this section and this article, "registration" or "registered" means the licensing of manufacturers, pharmacists, pharmacies, and humane societies located in this state, and distributors located in or doing business in this state, by the state board of pharmacy as set forth in parts 1 and 3 of article 22 of title 12, C.R.S., the licensing of physicians by the state board of medical examiners, as set forth in article 36 of title 12, C.R.S., the licensing of podiatrists by the Colorado podiatry board, as set forth in article 32 of title 12, C.R.S., the licensing of dentists by the state board of dental examiners, as set forth in article 35 of title 12, C.R.S., the licensing of optometrists by the state board of optometric examiners, as set forth in article 40 of title 12, C.R.S., the licensing of veterinarians by the state board of veterinary medicine, as set forth in article 64 of title 12, C.R.S., and the licensing of researchers and addiction programs by the department of human services, as set forth in part 3 of article 22 of title 12, C.R.S.

(2) A person registered by the board or the department under this part 3 to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by the registration and in conformity with this article and with article 22 of title 12, C.R.S.

(3) The following persons need not register and may lawfully possess controlled substances under this article:

(a) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if the agent or employee is acting in the usual course of business or employment;

(b) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(c) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner.

(4) The board or department may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers upon finding it consistent with the public health and safety.

(5) The board or department may inspect the establishment of a registrant or applicant for registration of those persons they are authorized to register under this part 3 in accordance with rules adopted by the board or department.

18-18-303. Registration.

(1) The board or department shall register an applicant to manufacture or distribute substances included in schedules I through V unless the board or department determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board or department shall consider the following factors:

(a) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

(b) Compliance with applicable state and local law;

(c) Promotion of technical advances in the art of manufacturing controlled substances and the development of new substances;

(d) Any convictions of the applicant under any laws of another country or federal or state laws relating to any controlled substance;

(e) Past experience of the applicant in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

(f) Furnishing by the applicant of false or fraudulent material in any application filed under this article;

(g) Suspension or revocation of the applicant's federal registration or the applicant's registration of another state to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(h) Any other factors relevant to and consistent with the public health and safety.

(2) Registration under subsection (1) of this section entitles a registrant to manufacture or distribute a substance included in schedule I or II only if it is specified in the registration.

(3) A practitioner must be registered with the board or department before dispensing a controlled substance or conducting research with respect to a controlled substance included in schedules II through V. The department need not require separate registration under this article for practitioners engaging in research with nonnarcotic substances included in schedules II through V where the registrant is already registered under this article in another capacity. Practitioners registered under federal law to conduct research with substances included in schedule I may conduct research with substances included in schedule I within this state upon furnishing the department evidence of that federal registration.

(4) A manufacturer or distributor registered under the federal "Controlled Substances Act", 21 U.S.C. sec. 801 et seq., may submit a copy of the federal application as an application for registration as a manufacturer or distributor under this section. The board may require a manufacturer or distributor to submit information in addition to the application for registration under the federal act.

(5) Persons licensed under the provisions of part 1 of article 22 of title 12, C.R.S., or article 32, 35, 36, 40, or 64 of title 12, C.R.S., need not be licensed separately to distribute or dispense controlled substances to the extent provided under law if they are registered or are exempt from registration by the federal drug enforcement administration, provided that such persons indicate on any initial application or renewal application the schedules of controlled substances which such persons are authorized to use under public law 91-513, known as the federal "Comprehensive Drug Abuse Prevention and Control Act of 1970".

18-18-304. Suspension or revocation of registration.

(1) The board or department may suspend or revoke a registration under section 18-18-303 to manufacture, distribute, or dispense a controlled substance upon finding that the registrant has:

(a) Furnished false or fraudulent material information in any application filed under this part 3;

(b) Been convicted of a felony under any state or federal law relating to any controlled substance;

(c) Had the registrant's federal registration suspended or revoked and is no longer authorized by federal law to manufacture, distribute, or dispense controlled substances; or

(d) Committed acts that would render registration under section 18-18-303 inconsistent with the public interest as determined under that section.

(2) The board or department may deny, suspend, revoke, or take other authorized disciplinary action to limit the authority of any registrant to prescribe, distribute,

dispense, or administer controlled substances, or any classification thereof, within this state if grounds for denial, suspension, or revocation exist. These proceedings shall be conducted in accordance with the provisions of article 4 of title 24, C.R.S.

(3) If a registration is suspended or revoked, the board or department may place under seal all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. When a revocation order becomes final, the court may order the controlled substances forfeited to the state.

(4) The board or department may seize or place under seal any controlled substance owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by the registration. The controlled substance must be held for the benefit of the registrant or the registrant's successor in interest. The board or department shall notify a registrant, or the registrant's successor in interest, whose controlled substance is seized or placed under seal, of the procedures to be followed to secure the return of the controlled substance and the conditions under which it will be returned. The board or department may not dispose of any controlled substance seized or placed under seal under this subsection (4) until the expiration of one hundred eighty days after the controlled substance was seized or placed under seal. The costs incurred by the board or department in seizing, placing under seal, maintaining custody, and disposing of any controlled substance under this subsection (4) may be recovered from the registrant, any proceeds obtained from the disposition of the controlled substance, or from both. Any balance remaining after the costs have been recovered from the proceeds of any disposition must be delivered to the registrant or the registrant's successor in interest.

(5) The board or department shall promptly notify the drug enforcement administration of all orders restricting, suspending, or revoking registration and all forfeitures of controlled substances.

18-18-305. Order to show cause.

(1) Before denying, suspending, or revoking a registration, or refusing a renewal of registration, the board or department shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or the renewal refused. The order must state its grounds and direct the applicant or registrant to appear before the board or department at a specified time and place not less than thirty days after the date of service of the order. In case of a refusal to renew a registration, the order must be served not later than thirty days before the expiration of the registration. These proceedings must be conducted in accordance with section 24-4-105, C.R.S. The proceedings do not preclude any criminal prosecution or other proceeding. A proceeding to refuse to renew a registration does not affect the existing registration, which remains in effect until completion of the proceeding.

(2) The board or department may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under section 18-18-304, or where renewal of registration is refused, upon finding that there is an imminent danger to the public health or safety which warrants this action. The suspension continues in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the board or department or dissolved by a court of competent jurisdiction.

18-18-306. Records of registrants.

Persons registered to manufacture, distribute, or dispense controlled substances under this part 3 shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of federal law and with any additional rules adopted by the board or department.

18-18-307. Order forms.

A substance included in schedule I or II may be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms constitutes compliance with this section.

18-18-308. Prescriptions.

(1) As used in this section, “medical treatment” includes dispensing or administering a narcotic drug for pain, including intractable pain.

(2) Except as provided in section 18-18-414, a person may dispense a controlled substance only as provided in this section.

(3)(a) Except as provided in paragraph (b) of this subsection (3), a person shall not dispense a substance included in schedule II to an ultimate user of the substance without:

(I) The written prescription of a practitioner; or

(II) An electronic prescription drug order for a schedule II substance that is created and transmitted in accordance with 21 CFR 1311.

(b) A practitioner, other than a pharmacy, may dispense a schedule II substance directly to the ultimate user without a written prescription.

(4)(a) Except as provided in paragraph (b) of this subsection (4), a person shall not dispense a substance included in schedule III, IV, or V to an ultimate user of the substance without:

(I) A written or oral prescription order of a practitioner; or

(II) An electronic prescription drug order for a schedule III, IV, or V substance that is created and transmitted in accordance with 21 CFR 1311.

(b) A practitioner, other than a pharmacy, may dispense a schedule III, IV, or V

substance directly to the ultimate user without a written prescription.

(c) A prescription order for a schedule III, IV, or V substance must not be filled or refilled more than six months after the date of the order or be refilled more than five times.

(5) A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner's profession.

(6) No civil or criminal liability or administrative sanction may be imposed on a pharmacist for action taken in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

18-18-309. Diversion prevention and control.

(1) As used in this section, "diversion" means the transfer of any controlled substance from a licit to an illicit channel of distribution or use.

(2) The department shall regularly prepare and make available to other state regulatory, licensing, and law enforcement agencies a report on the patterns and trends of actual distribution, diversion, and abuse of controlled substances.

(3) The department shall enter into written agreements with local, state, and federal agencies for the purpose of improving identification of sources of diversion and to improve enforcement of and compliance with this article and other laws and regulations pertaining to unlawful conduct involving controlled substances. An agreement must specify the roles and responsibilities of each agency that has information or authority to identify, prevent, and control drug diversion and drug abuse. The department shall convene periodic meetings to coordinate a state diversion prevention and control program. The department shall arrange for cooperation and exchange of information among agencies and with neighboring states and the federal government.

(4) The department shall annually report to the governor and to the president of the senate and the speaker of the house of representatives on the outcome of this program with respect to its effects on distribution and abuse of controlled substances, including recommendations for improving control and prevention of the diversion of controlled substances in this state.

PART 4

OFFENSES AND PENALTIES

18-18-401. Legislative declaration.

The general assembly hereby finds, determines, and declares that the strict control of controlled substances in this state is necessary for the immediate and future preservation of the public peace, health, and safety.

18-18-402. Definitions - terms used.

As used in this part 4, unless this part 4 otherwise provides or unless the context otherwise requires, terms used in this part 4 shall have the same meanings as those set forth in part 2 of this article.

18-18-403. Additional definition.

As used in this part 4, unless the context otherwise requires:

(1) "Sale" includes a barter, an exchange, or a gift, or an offer therefor, and each such transaction made by any person, whether as the principal, proprietor, agent, servant, or employee, with or without remuneration.

18-18-404. Unlawful use of a controlled substance.

(1) (a) Except as is otherwise provided for offenses concerning marihuana and marihuana concentrate in sections 18-18-406 and 18-18-406.5, any person who uses any controlled substance, except when it is dispensed by or under the direction of a person licensed or authorized by law to prescribe, administer, or dispense such controlled substance for bona fide medical needs, commits:

(I) A class 6 felony, if the controlled substance is listed in schedule I or II of part 2 of this article;

(II) A class 1 misdemeanor, if the controlled substance is listed in schedule III, IV, or V of part 2 of this article.

(b) Repealed.

(1.1) Repealed.

(2) When any person is found guilty of a violation of subsection (1) of this section, after trial or upon a plea of guilty or nolo contendere, the court shall conduct an investigation to determine whether or not the defendant is:

(a) Addicted to a controlled substance;

- (b) In need of treatment for the use of a controlled substance; or
- (c) Dependent on a controlled substance.

(3) If the court determines that the defendant is addicted to, a person in need of treatment for, or dependent upon a controlled substance, the court may declare the defendant a person in need of treatment, and the court, without imposing sentence and with the consent of such person, shall suspend further proceedings, shall order the person to participate in a treatment program, and shall order such other reasonable conditions for such person as it may require for such period, not to exceed four years, as the court may prescribe. Upon any violation of a condition of the treatment order, the court may impose sentence and proceed as otherwise provided by law. The court, in its discretion, may dismiss the proceedings against such person and discharge him or her from treatment before the expiration of the period prescribed for the treatment. If, during the period of this treatment, such person does not violate any of the conditions set forth by the court, the court, upon the expiration of such period, shall discharge such person and dismiss any further proceedings against him or her. Such discharge and dismissal shall not be termed a conviction for the purposes of disqualification or disapproval imposed by law upon conviction of a crime, including the penalties prescribed by law for second or subsequent convictions or for any other purpose.

- (4) Repealed.

18-18-405. Unlawful distribution, manufacturing, dispensing, sale, or possession.

(1) (a) Except as authorized by part 3 of article 22 of title 12, C.R.S., or by part 2 or 3 of this article, it is unlawful for any person knowingly to manufacture, dispense, sell, distribute, possess, or to possess with intent to manufacture, dispense, sell, or distribute a controlled substance; or induce, attempt to induce, or conspire with one or more other persons, to manufacture, dispense, sell, distribute, possess, or possess with intent to manufacture, dispense, sell, or distribute a controlled substance; or possess one or more chemicals or supplies or equipment with intent to manufacture a controlled substance.

(b) As used in this subsection (1), "dispense" does not include labeling, as defined in section 12-22-102 (16), C.R.S.

(2) (a) Except as is otherwise provided in subsection (2.3) of this section for possession offenses not including possession with the intent to distribute involving one gram or less of any material, compound, mixture, or preparation that contains any quantity of a schedule I through IV controlled substance, and for offenses concerning marihuana and marihuana concentrate in section 18-18-406, and for offenses involving minors in section 18-18-407 (1) (g), any person who violates any of the provisions of subsection (1) of this section:

(I) In the case of a controlled substance listed in schedule I or II of part 2 of this article, commits:

(A) A class 3 felony; except that a person commits a class 4 felony if such violation is based on the possession of a controlled substance listed in schedule II unless otherwise provided in paragraph (a) of subsection (3) of this section; or

(B) A class 2 felony, if the violation is committed subsequent to a prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which this subparagraph (I) applies or would apply if convicted in this state;

(II) In the case of a controlled substance listed in schedule III of part 2 of this article, commits:

(A) A class 4 felony; or

(B) A class 3 felony, if the violation is committed subsequent to any prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which subparagraph (I) of this paragraph (a) or this subparagraph (II) applies or would apply if convicted in this state;

(III) In the case of a controlled substance listed in schedule IV of part 2 of this article, commits:

(A) A class 5 felony; or

(B) A class 4 felony, if the violation is committed subsequent to a prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which subparagraph (I) or (II) of this paragraph (a) or this subparagraph (III) applies or would apply if convicted in this state;

(IV) In the case of a controlled substance listed in schedule V of part 2 of this article, commits:

(A) A class 1 misdemeanor; or

(B) A class 5 felony, if the violation is committed subsequent to any prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which subparagraph (I), (II), or (III) of this paragraph (a) or this subparagraph (IV) applies or would apply if convicted in this state.

(b) Repealed.

(2.1) Repealed.

(2.3) (a) Any person who commits the offense of possession in violation of the provisions of subsection (1) of this section by possessing any material, compound, mixture, or preparation, weighing one gram or less that contains any quantity of a controlled substance listed in schedules I through IV of part 2 of this article commits:

(I) A class 6 felony; or

(II) A class 4 felony, if the violation is committed subsequent to any prior conviction under subparagraph (I), (II), or (III) of paragraph (a) of subsection (2) of this section or under this subsection (2.3).

(b) Repealed.

(2.5) (a) Notwithstanding the provisions of subparagraph (III) of paragraph (a) of subsection (2) of this section, a person who violates the provisions of subsection (1) of this section with regard to flunitrazepam commits a class 3 felony; except that the person commits a class 2 felony if the violation is committed subsequent to a prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation involving flunitrazepam or to which subparagraph (I) of paragraph (a) of subsection (2) of this section applies or would apply if convicted in this state.

(b) Any person convicted of violating the provisions of subsection (1) of this section with regard to flunitrazepam shall be subject to the mandatory sentencing provisions of subsection (3) of this section.

(c) Repealed.

(2.6) Repealed.

(3) (a) Unless a greater sentence is required pursuant to the provisions of another statute, any person convicted pursuant to subparagraph (I) of paragraph (a) of subsection (2) of this section for knowingly manufacturing, dispensing, selling, distributing, possessing, or possessing with intent to manufacture, dispense, sell, or distribute, or inducing, attempting to induce, or conspiring with one or more other persons, to manufacture, dispense, sell, distribute, possess, or possess with intent to manufacture, dispense, sell, or distribute an amount that is or has been represented to be:

(I) At least twenty-five grams or one ounce but less than four hundred fifty grams of any material, compound, mixture, or preparation that contains a schedule I or schedule II controlled substance as listed in section 18-18-203 or 18-18-204 shall be sentenced to the department of corrections for at least the minimum term of incarceration in the presumptive range provided for such offense in section 18-1.3-401 (1) (a) with regard to offenses other than manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute, and for at least the minimum term of incarceration in the presumptive range provided for such offense in section 18-1.3-401 (1) (a) as modified pursuant to section 18-1.3-401 (10) with regard to manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute;

(II) At least four hundred fifty grams or one pound but less than one thousand grams of any material, compound, mixture, or preparation that contains a schedule I or schedule II controlled substance as listed in section 18-18-203 or 18-18-204 shall be sentenced to the department of corrections for a term of at least the midpoint of the presumptive range but not more than twice the maximum presumptive range provided for such offense in section 18-1.3-401 (1) (a) with regard to offenses other than manufacturing, dispensing,

selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute, and for a term of at least the midpoint of the presumptive range but not more than twice the maximum presumptive range provided for such offense in section 18-1.3-401 (1) (a) as modified pursuant to section 18-1.3-401 (10) with regard to manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute;

(III) One thousand grams or one kilogram or more of any material, compound, mixture, or preparation that contains a schedule I or schedule II controlled substance as listed in section 18-18-203 or 18-18-204 shall be sentenced to the department of corrections for a term greater than the maximum presumptive range but not more than twice the maximum presumptive range provided for such offense in section 18-1.3-401 (1) (a) with regard to offenses other than manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute, and for a term greater than the maximum presumptive range but not more than twice the maximum presumptive range provided for such offense in section 18-1.3-401 (1) (a) as modified pursuant to section 18-1.3-401 (10) with regard to manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute.

(b) In addition to any other penalty imposed under this subsection (3), upon conviction, a person who violates this subsection (3) shall be fined not less than one thousand dollars but not more than five hundred thousand dollars. For offenses committed on or after July 1, 1985, the fine shall be in an amount within the presumptive range set out in section 18-1.3-401 (1) (a) (III).

(3.5) The felony offense of unlawfully manufacturing, dispensing, selling, distributing, or possessing with intent to unlawfully manufacture, dispense, sell, or distribute a controlled substance is an extraordinary risk crime that is subject to the modified presumptive sentencing range specified in section 18-1.3-401 (10).

(4) Repealed.

(5) When a person commits unlawful distribution, manufacture, dispensing, sale, or possession with intent to manufacture, dispense, sell, or distribute any schedule I or schedule II controlled substance, as listed in section 18-18-203 or 18-18-204, or flunitrazepam, pursuant to subsection (1) of this section, twice or more within a period of six months, without having been placed in jeopardy for the prior offense or offenses, and the aggregate amount of the schedule I or schedule II controlled substance or flunitrazepam involved equals or exceeds twenty-five grams, the defendant shall be sentenced pursuant to the mandatory sentencing requirements specified in subsection (3) of this section.

(6) Repealed.

18-18-406. Offenses relating to marihuana and marihuana concentrate.

(1) Any person who possesses not more than one ounce of marihuana commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

(2) Whenever a person is arrested or detained for a violation of subsection (1) of this section, the arresting or detaining officer shall prepare a written notice or summons for such person to appear in court. The written notice or summons shall contain the name and address of such arrested or detained person, the date, time, and place where such person shall appear, and a place for the signature of such person indicating the person's written promise to appear on the date and at the time and place indicated on the notice or summons. One copy of said notice or summons shall be given to the person arrested or detained, one copy shall be sent to the court where the arrested or detained person is to appear, and such other copies as may be required by the law enforcement agency employing the arresting or detaining officer shall be sent to the places designated by such law enforcement agency. The date specified in the notice or summons to appear shall be at least five days after such arrest or detention unless the person arrested or detained demands an earlier hearing. The place specified in the notice or summons to appear shall be before a judge having jurisdiction of such class 2 petty offense within the county in which the class 2 petty offense charged is alleged to have been committed. The arrested or detained person, in order to secure release from arrest or detention, shall promise in writing to appear in court by signing the notice or summons prepared by the arresting or detaining officer. Any person who does not honor such written promise to appear commits a class 3 misdemeanor.

(3) (a) (I) Any person who openly and publicly displays, consumes, or uses not more than one ounce of marihuana commits a class 2 petty offense and, upon conviction thereof, shall be punished, at a minimum, by a fine of not less than one hundred dollars or, at a maximum, by a fine of not more than one hundred dollars and, notwithstanding the provisions of section 18-1.3-503, by fifteen days in the county jail.

(II) Open and public display, consumption, or use of more than one ounce of marihuana or any amount of marihuana concentrate shall be deemed possession thereof, and violations shall be punished as provided for in subsection (4) of this section.

(b) Except as is otherwise provided for in paragraph (a) of this subsection (3), consumption or use of marihuana or marihuana concentrate shall be deemed possession thereof, and violations shall be punished as provided for in subsections (1), (2), and (4) of this section.

(4) (a) Any person who possesses more than one ounce of marihuana but less than eight ounces of marihuana commits:

(I) A class 1 misdemeanor; or

(II) A class 5 felony, if the violation is committed subsequent to a prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which this subsection (4) applies or would apply if convicted in this state.

(b) Any person who possesses eight ounces or more of marihuana or any amount of marihuana concentrate commits:

(I) A class 5 felony; or

(II) A class 4 felony, if the violation is committed subsequent to a prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which this subsection (4) applies or would apply if convicted in this state.

(5) Transferring or dispensing not more than one ounce of marihuana from one person to another for no consideration shall be deemed possession and not dispensing or sale thereof.

(6) The court may utilize treatment, probation, and deferred prosecution or deferred sentencing for any person who violates subsection (4) of this section.

(7) (a) Any provision of this article to the contrary notwithstanding, any person eighteen years of age or older who transfers or dispenses more than one ounce of marihuana for consideration to any person under eighteen years of age but at least fifteen years of age or any amount of marihuana concentrate, with or without consideration, to another person under eighteen years of age commits a class 4 felony and, in addition to the punishment prescribed in section 18-1.3-401, shall be punished by a fine of not more than five thousand dollars. For offenses committed on or after July 1, 1985, the fine shall be in an amount within the presumptive range set out in section 18-1.3-401 (1) (a) (III).

(b) Any person eighteen years of age or older who transfers or dispenses any amount of marihuana, with or without consideration, to any person under the age of fifteen years commits a class 4 felony and, in addition to the punishment provided in section 18-1.3-401, shall be punished by a fine of not more than five thousand dollars. For offenses committed on or after July 1, 1985, the fine shall be in an amount within the presumptive range set out in section 18-1.3-401 (1) (a) (III).

(c) Any person commits a class 3 felony, if the violation is committed subsequent to a prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which this subsection (7) applies or would apply if convicted in this state, and, in addition to the punishment provided in section 18-1.3-401, the court shall sentence the defendant to the department of corrections for at least the minimum term in the presumptive range. For offenses committed on or after July 1, 1985, the fine shall be in an amount within the presumptive range set out in section 18-1.3-401 (1) (a) (III).

(8) (a) (I) No person knowingly shall cultivate, grow, produce, process, or manufacture any marihuana or marihuana concentrate or knowingly allow to be cultivated, grown, produced, processed, or manufactured on land owned, occupied, or controlled by him any marihuana or marihuana concentrate except as authorized pursuant to part 3 of article 22 of title 12, C.R.S.

(II) Any person who violates the provisions of subparagraph (I) of this paragraph (a) commits:

(A) A class 4 felony; or

(B) A class 3 felony, if the violation is committed subsequent to a prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the

United States of a violation to which this subsection (8) applies or would apply if convicted in this state.

(b) (I) Except as is otherwise provided in subsection (7) of this section and except as authorized by part 3 of article 22 of title 12, C.R.S., or by part 2 or 3 of this article, it is unlawful for any person knowingly to manufacture, dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or distribute marihuana or marihuana concentrate; or attempt, induce, attempt to induce, or conspire with one or more other persons, to manufacture, dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or distribute marihuana or marihuana concentrate.

(II) As used in subparagraph (I) of this paragraph (b), "dispense" does not include labeling, as defined in section 12-22-102 (16), C.R.S.

(III) Any person who violates any of the provisions of subparagraph (I) of this paragraph (b) commits:

(A) A class 4 felony; or

(B) A class 3 felony, if the violation is committed subsequent to any prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which this subsection (8) applies or would apply if convicted in this state.

(9) (Deleted by amendment, L. 2003, p. 1428, § 12, effective April 29, 2003.)

(10) The provisions of this section shall not apply to any person who possesses, uses, prescribes, dispenses, or administers any drug classified under group C guidelines of the national cancer institute, as amended, approved by the federal food and drug administration.

(11) The provisions of this section shall not apply to any person who possesses, uses, prescribes, dispenses, or administers dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a federal food and drug administration approved drug product, pursuant to part 3 of article 22 of title 12, C.R.S.

(12) Repealed.

18-18-406.3. Medical use of marijuana by persons diagnosed with debilitating medical conditions - unlawful acts - penalty - medical marijuana program cash fund.

(1) The general assembly hereby finds and declares that:

(a) Section 14 of article XVIII of the state constitution was approved by the registered electors of this state at the 2000 general election;

(b) Section 14 of article XVIII of the state constitution creates limited exceptions to the criminal laws of this state for patients, primary care givers, and physicians concerning

the medical use of marijuana by a patient to alleviate an appropriately diagnosed debilitating medical condition;

(c) Section 14 of article XVIII of the state constitution requires a state health agency designated by the governor to establish and maintain a confidential registry of patients authorized to engage in the medical use of marijuana;

(d) The governor, in accordance with paragraph (h) of subsection (1) of section 14 of article XVIII of the state constitution, has designated the department of public health and environment, referred to in this section as the department, to be the state health agency responsible for the administration of the medical marijuana program;

(e) Section 14 of article XVIII of the state constitution requires the department to process the applications of patients who wish to qualify for and be placed on the confidential registry for the medical use of marijuana, and to issue registry identification cards to patients who qualify for placement on the registry;

(f) Section 14 of article XVIII of the state constitution sets forth the lawful limits on the medical use of marijuana;

(g) Section 14 of article XVIII of the state constitution requires the general assembly to determine and enact criminal penalties for specific acts described in the constitutional provision;

(h) In interpreting the provisions of section 14 of article XVIII of the state constitution, the general assembly has applied the definitions contained in subsection (1) of the constitutional provision and has attempted to give the remaining words of the constitutional provision their plain meaning;

(i) This section reflects the considered judgment of the general assembly regarding the meaning and implementation of the provisions of section 14 of article XVIII of the state constitution.

(2) (a) Any person who fraudulently represents a medical condition to a physician, the department, or a state or local law enforcement official for the purpose of falsely obtaining a marijuana registry identification card from the department, or for the purpose of avoiding arrest and prosecution for a marijuana-related offense, commits a class 1 misdemeanor.

(b) If an officer or employee of the department receives information that causes such officer or employee reasonably to believe that fraudulent representation, as described in paragraph (a) of this subsection (2), has occurred, such officer or employee shall report the information to either the district attorney of the county in which the applicant for the marijuana registry identification card resides, or to the attorney general.

(3) The fraudulent use or theft of any person's marijuana registry identification card, including, but not limited to, any card that is required to be returned to the department pursuant to section 14 of article XVIII of the state constitution, is a class 1 misdemeanor.

(4) The fraudulent production or counterfeiting of, or tampering with, one or more marijuana registry identification cards is a class 1 misdemeanor.

(5) Any person including, but not limited to, any officer, employee, or agent of the department, or any officer, employee, or agent of any state or local law enforcement agency, who releases or makes public any confidential record or any confidential information contained in any such record that is provided to or by the marijuana registry of the department without the written authorization of the marijuana registry patient commits a class 1 misdemeanor.

18-18-406.5. Unlawful use of marihuana in a detention facility.

(1) Any person confined in any detention facility in this state who possesses or uses up to eight ounces of marihuana commits a class 6 felony; except that, if the person commits a second or subsequent violation where both the initial and subsequent violations involved more than one ounce of marihuana, the person commits a class 5 felony.

(2) Any person confined in any detention facility in this state who possesses or uses eight ounces or more of marihuana shall be subject to the provisions of section 18-18-406 (4) (b).

(3) For purposes of this section, "detention facility" means any building, structure, enclosure, vehicle, institution, or place, whether permanent or temporary, fixed or mobile, where persons are or may be lawfully held in custody or confinement under the authority of the state of Colorado or any political subdivision of the state of Colorado.

18-18-407. Special offender.

(1) Upon a felony conviction under this part 4, the presence of any one or more of the following extraordinary aggravating circumstances designating the defendant a special offender shall require the court to sentence the defendant to the department of corrections for a term of at least the minimum term of years within the presumptive range for a class 2 felony but not more than twice the maximum term of years within the presumptive range for a class 2 felony:

(a) The defendant was previously convicted in courts of the United States or a state or any political subdivision thereof for two or more offenses involving the manufacture, sale, dispensing, or distribution of controlled substances, which offenses did not arise from the same criminal episode or course of events and differ from the pending felony and which were punishable by imprisonment in excess of one year;

(b) The defendant committed an offense as part of a pattern of manufacturing, sale, dispensing, or distributing controlled substances, which offense is a felony under applicable laws of Colorado, which constituted a substantial source of that person's income, and in which that person manifested special skill or expertise;

(c) The defendant committed a felony which was, or was in furtherance of, a conspiracy with one or more persons to engage in a pattern of manufacturing, sale,

dispensing, or distributing a controlled substance, which offense is a felony under applicable laws of Colorado, and the defendant did, or agreed that he would, initiate, organize, plan, finance, direct, manage, or supervise all or part of such conspiracy or manufacture, sale, dispensing, or distributing, or give or receive a bribe, or use force in connection with such manufacture, sale, dispensing, or distribution;

(d) The defendant unlawfully introduced, distributed, or imported into the state of Colorado any schedule I or II controlled substance (contained in part 2 of this article);

(e) The defendant unlawfully sold, dispensed, distributed, possessed, or imported into the state of Colorado a quantity in excess of one hundred pounds of marihuana or marihuana concentrate;

(f) The defendant used, displayed, possessed, or had available for use a deadly weapon as defined in section 18-1-901 (3) (e);

(g) The defendant solicited, induced, encouraged, intimidated, employed, hired, or procured a child, as defined in section 19-1-103 (18), C.R.S., to act as his agent to assist in the unlawful distribution, manufacturing, dispensing, sale, or possession for the purposes of sale of any controlled substance in violation of section 18-18-405. It shall not be a defense under this paragraph (g) that the defendant did not know the age of any such individual.

(h) (I) The defendant engaged in a continuing criminal enterprise by violating any provision of this part 4 which is a felony; and

(II) The violation is a part of a continuing series of two or more violations of this part 4 on separate occasions:

(A) Which are undertaken by that person in concert with five or more other persons with respect to whom that person occupies a position of organizer, supervisor, or any other position of management; and

(B) From which that person obtained substantial income or resources.

(2) (a) A defendant shall be a special offender if the defendant is convicted of selling, distributing, possessing with intent to distribute, manufacturing, or attempting to manufacture any controlled substance in violation of section 18-18-405 either within or upon the grounds of any public or private elementary, middle, junior high, or high school, vocational school, or public housing development, or within one thousand feet of the perimeter of any such school or public housing development grounds on any street, alley, parkway, sidewalk, public park, playground, or other area or premises that is accessible to the public, or within any private dwelling that is accessible to the public for the purpose of the sale, distribution, use, exchange, manufacture, or attempted manufacture of controlled substances in violation of this article, or in any school bus as defined in section 42-1-102 (88), C.R.S., while such school bus is engaged in the transportation of persons who are students at any public or private elementary, middle, junior high, or high school. The court is required in addition to imposing the sentence to imprisonment in the department of corrections required by subsection (1) of this section, to fine the defendant without suspension at least twice the minimum fine provided for in section 18-1.3-401 (1)

(a) (III) if the defendant's offense is a felony or in section 18-1.3-501 (1) if the defendant's offense is a misdemeanor.

(b) The department of education may cooperate with local boards of education and the officials of public housing developments, and make recommendations regarding the uniform implementation and furnishing of notice of the provisions of this subsection (2). Such recommendations may include, but shall not be limited to, the uniform use of signs and other methods of notification which may be used to implement this subsection (2).

(c) For the purposes of this section, the term "public housing development" means any low-income housing project of any state, county, municipal, or other governmental entity or public body owned and operated by a public housing authority that has an on-site manager. "Public housing development" shall not include single-family dispersed housing or small or large clusters of dispersed housing having no on-site manager.

(3) (a) In support of the findings under paragraph (b) of subsection (1) of this section, it may be shown that the defendant has had in his own name or under his control income or property not explained as derived from a source other than such manufacture, sale, dispensing, or distribution of controlled substances.

(b) For the purposes of paragraph (b) of subsection (1) of this section only, a "substantial source of that person's income" means a source of income which, for any period of one year or more, exceeds the minimum wage, determined on the basis of a forty-hour week and fifty-week year, or which, for the same period, exceeds fifty percent of the defendant's declared adjusted gross income under Colorado or any other state law or under federal law, whichever adjusted gross income is less.

(c) For the purposes of paragraph (b) of subsection (1) of this section, "special skill or expertise" in such manufacture, sale, dispensing, or distribution includes any unusual knowledge, judgment, or ability, including manual dexterity, facilitating the initiation, organizing, planning, financing, directing, managing, supervising, executing, or concealing of such manufacture, sale, dispensing, or distributing, the enlistment of accomplices in such manufacture, sale, dispensing, or distribution, the escape from detection or apprehension for such manufacture, sale, dispensing, or distribution, or the disposition of the fruits or proceeds of such manufacture, sale, dispensing, or distribution.

(d) For the purposes of paragraphs (b) and (c) of subsection (1) of this section, such manufacture, sale, dispensing, or distribution forms a pattern if it embraces criminal acts which have the same or similar purposes, results, participants, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics and are not isolated events.

(4) Nothing in this section shall preclude the court from considering aggravating circumstances other than those stated in subsection (1) of this section as a basis for sentencing the defendant to a term greater than the presumptive range for the felony.

(5) If a defendant who is subject to the provisions of this section is subject to a greater sentence pursuant to the provisions of another statute, the court shall impose sentence

pursuant to that statute. The prosecution shall not be forced to elect under which statute to proceed.

18-18-408. Money laundering - illegal investments - penalty.

(1) A person commits a class 3 felony if he knowingly or intentionally:

(a) Receives or acquires proceeds, or engages in transactions involving proceeds, known to be derived from any violation of this article;

(b) Gives, sells, transfers, trades, invests, conceals, transports, or otherwise makes available anything of value which the defendant knows is intended to be used for the purpose of committing or furthering the commission of any violation of this article;

(c) Directs, plans, organizes, initiates, finances, manages, supervises, or facilitates the transportation or transfer of proceeds known to be derived from any violation of this article;

(d) Conducts a financial transaction involving proceeds derived from a violation of this article when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds known to be derived from a violation of this article or to avoid a transaction reporting requirement under state or federal law.

18-18-409. Reduction or suspension of sentence for providing substantial assistance.

Notwithstanding any other provision of this article, the district attorney may request the sentencing court to reduce or suspend the sentence of any individual who is convicted of a violation of section 18-18-405 or 18-18-407 (1) (e) and who provides substantial assistance in the identification, arrest, or conviction of any person for a violation of this article. Upon good cause shown, the request may be filed and heard in camera. The judge hearing the motion may reduce or suspend the sentence if the judge finds that the assistance rendered was substantial.

18-18-410. Declaration of class 1 public nuisance.

Any store, shop, warehouse, dwelling house, building, vehicle, boat, or aircraft or any place whatsoever which is frequented by controlled substance addicts for the unlawful use of controlled substances or which is used for the unlawful storage, manufacture, sale, or distribution of controlled substances is declared to be a class 1 public nuisance and subject to the provisions of section 16-13-303, C.R.S. Any real or personal property which is seized or confiscated as a result of an action to abate a public nuisance shall be disposed of pursuant to part 7 of article 13 of title 16, C.R.S.

18-18-411. Keeping, maintaining, controlling, renting, or making available property for unlawful distribution or manufacture of controlled substances.

(1) It is unlawful for any person knowingly or intentionally to keep, maintain, control, rent, lease, or make available for use any store, shop, warehouse, dwelling, building, vehicle, vessel, aircraft, room, enclosure, or other structure or place, which that person knows is resorted to for the purpose of keeping for distribution, transporting for distribution, or distributing controlled substances in violation of this article.

(2) Except as authorized by this article, it is unlawful for any person to:

(a) Knowingly or intentionally open or maintain any place which that person knows is resorted to for the purpose of unlawfully manufacturing a controlled substance; or

(b) Manage or control any building, room, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, and knowingly or intentionally rent, lease, or make available for use, with or without compensation, the building, room, or enclosure which that person knows is resorted to for the purpose of unlawfully manufacturing a controlled substance.

(3) A person does not violate subsection (2) of this section:

(a) By reason of any act committed by another person while that other person is unlawfully on or in the structure or place, if the person lacked knowledge of the unlawful presence of that other person; or

(b) If the person has notified a law enforcement agency with jurisdiction to make an arrest for the illegal conduct.

(4) A person who violates this section commits a class 1 misdemeanor.

18-18-412. Abusing toxic vapors - prohibited.

(1) No person shall knowingly smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system. No person shall knowingly possess, buy, or use any such substance for the purposes described in this subsection (1), nor shall any person knowingly aid any other person to use any such substance for the purposes described in this subsection (1). This subsection (1) shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.

(2) Any person who knowingly violates the provisions of subsection (1) of this section commits the offense of abusing toxic vapors. Abusing toxic vapors is a class 1 petty offense; except that no person shall receive a sentence to confinement in jail for being convicted of a first offense pursuant to this subsection (2). Any person convicted of a second or any subsequent offense pursuant to this subsection (2) may receive a sentence to confinement in jail.

(3) For the purposes of this section, the term "toxic vapors" means the following substances or products containing such substances:

- (a) Alcohols, including methyl, isopropyl, propyl, or butyl;
- (b) Aliphatic acetates, including ethyl, methyl, propyl, or methyl cellosolve acetate;
- (c) Acetone;
- (d) Benzene;
- (e) Carbon tetrachloride;
- (f) Cyclohexane;
- (g) Freons, including freon 11 and freon 12;
- (h) Hexane;
- (i) Methyl ethyl ketone;
- (j) Methyl isobutyl ketone;
- (k) Naphtha;
- (l) Perchloroethylene;
- (m) Toluene;
- (n) Trichloroethane; or
- (o) Xylene.

(4) In a prosecution for a violation of this section, evidence that a container lists one or more of the substances described in subsection (3) of this section as one of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof.

(5) Any juvenile charged with an offense pursuant to this section shall be subject to the jurisdiction of the juvenile court pursuant to section 19-2-104, C.R.S.

18-18-412.5. Unlawful possession of materials to make methamphetamine and amphetamine - penalty.

(1) The general assembly finds and declares that persons are manufacturing methamphetamine and amphetamine using nonprescription drugs that are readily and legally available. The general assembly further finds that it is necessary to make illegal the possession of such nonprescription drugs with the intent to use them as immediate precursors in manufacturing any controlled substance.

(2) Notwithstanding any other provision of law to the contrary, no person shall possess ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or

salts of isomers, with the intent to use such product as an immediate precursor in the manufacture of any controlled substance.

(3) A person who violates the provisions of this section commits a class 3 felony.

18-18-412.7. Sale or distribution of materials to manufacture controlled substances.

(1) A person who sells or distributes chemicals, supplies, or equipment, and who knows or reasonably should know or believes that a person intends to use the chemicals, supplies, or equipment to illegally manufacture a controlled substance violates this section.

(2) A violation of this section is a class 3 felony. A violation of this section is an extraordinary risk crime that is subject to the modified presumptive sentencing range specified in section 18-1.3-401 (10).

18-18-412.8. Retail sale of methamphetamine precursor drugs - unlawful acts - penalty.

(1) (Deleted by amendment, L. 2006, p. 1705, § 3, effective July 1, 2006.)

(2) (a) A person may not knowingly deliver in or from a store to the same individual during any twenty-four-hour period more than three and six-tenths grams of a methamphetamine precursor drug or a combination of two or more methamphetamine precursor drugs.

(b) A person may not purchase more than three and six-tenths grams of a methamphetamine precursor drug or a combination of two or more methamphetamine precursor drugs during any twenty-four-hour period.

(c) It is unlawful for a methamphetamine precursor drug that is offered for retail sale in or from a store to be offered for sale or stored or displayed prior to sale in an area of the store to which the public is allowed access.

(2.5) (a) A person may not deliver in a retail sale in or from a store a methamphetamine precursor drug to a minor under eighteen years of age.

(b) It shall be an affirmative defense to a prosecution under this subsection (2.5) that the person performing the retail sale was presented with and reasonably relied upon a document that identified the person receiving the methamphetamine precursor drug as being eighteen years of age or older.

(3) (a) A person who knowingly violates a provision of this section commits a class 2 misdemeanor and, upon conviction, shall be punished as provided in section 18-1.3-501.

(b) A person who is an owner, operator, manager, or supervisor at a store in which, or from which, a retail sale of a methamphetamine precursor drug in violation of this section is made shall not be liable under this section if he or she:

(I) Did not have knowledge of the sale; and

(II) Did not participate in the sale; and

(III) Did not knowingly direct the person making the sale to commit a violation of this section.

(4) For purposes of this section:

(a) (I) Except as otherwise provided in subparagraph (II) of this paragraph (a), "methamphetamine precursor drug" means ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, isomers, or salts of isomers.

(II) "Methamphetamine precursor drug" does not include a substance contained in any package or container that is labeled by the manufacturer as intended for pediatric use.

(b) "Person" means an individual who owns, operates, is employed by, or is an agent of a store.

(c) "Store" means any establishment primarily engaged in the sale of goods at retail.

(5) Nothing in this section shall be construed to restrict the discretion of a district attorney to bring charges under this section against a person who also is charged with violating section 18-18-412.7.

18-18-413. Authorized possession of controlled substances.

A person to whom or for whose use any controlled substance has been prescribed or dispensed by a practitioner may lawfully possess it, but only in the container in which it was delivered to him unless he is able to show that he is the legal owner or a person acting at the direction of the legal owner of the controlled substance. Any person convicted of violating this section commits a class 1 petty offense.

18-18-414. Unlawful acts - licenses - penalties.

(1) Except as otherwise provided in this article or in article 42.5 of title 12, C.R.S., the following acts are unlawful:

(a) The dispensing or possession of a schedule I controlled substance except by a researcher who is registered under federal law to conduct research with that schedule I controlled substance;

(b) Except as provided in subsection (2) of this section, the dispensing of any schedule II controlled substance unless such substance is dispensed:

(I) From a pharmacy pursuant to a written order or an order electronically transmitted in accordance with 21 CFR 1311; or

(II) By any practitioner in the course of his or her professional practice;

(c) The dispensing of any schedule III, IV, or V controlled substance unless such

controlled substance is dispensed from a pharmacy pursuant to a written, oral, mechanically produced, computer generated, electronically transmitted, or facsimile transmitted order or is dispensed by any practitioner in the course of his or her professional practice;

(d) The dispensing of any marijuana or marijuana concentrate;

(e) To refill any schedule III, IV, or V controlled substance more than six months after the date on which such prescription was issued or more than five times;

(f) The failure of a pharmacy to file and retain the prescription as required in section 12-42.5-131, C.R.S.;

(g) The failure of a hospital to record and maintain a record of such dispensing as provided in section 12-42.5-131 or 27-80-210, C.R.S.;

(h) The refusal to make available for inspection and to accord full opportunity to check any record or file as required by this article, part 1 of article 42.5 of title 12, C.R.S., or part 2 of article 80 of title 27, C.R.S.;

(i) The failure to keep records as required by this article, part 1 of article 42.5 of title 12, C.R.S., or part 2 of article 80 of title 27, C.R.S.;

(j) The failure to obtain a license or registration as required by this article, part 1 of article 42.5 of title 12, C.R.S., or part 2 of article 80 of title 27, C.R.S.;

(k) Except when controlled substances are dispensed by a practitioner for direct administration in the course of his practice or are dispensed for administration to hospital inpatients, the failure to affix to the immediate container a label stating:

(I) The name and address of the person from whom such controlled substance was dispensed;

(II) The date on which such controlled substance was dispensed;

(III) The number of such prescription as filed in the prescription files of the pharmacy which dispensed such prescription;

(IV) The name of the prescribing practitioner;

(V) The directions for use of the controlled substance as contained in the prescription; and

(VI) The name of the patient and, if for an animal, the name of the owner;

(l) The failure of a practitioner, in dispensing a controlled substance other than by direct administration in the course of his practice, to affix to the immediate container a label bearing directions for use of the controlled substance, his name and registry number, the name of the patient, the date, and, if for an animal, the name of the owner;

(m) The administration of a controlled substance other than to the patient for whom prescribed;

(n) The possession, by any practitioner, of a controlled substance which was not obtained from a pharmacy and which was received from a person who is not licensed as a manufacturer, distributor, or practitioner. It is also unlawful for a pharmacy to have possession of a controlled substance which is received from any person who is not licensed as a manufacturer or distributor; except that a pharmacy may buy controlled substances from another pharmacy.

(o) Knowingly transferring drug precursors to any person who uses them for an unlawful activity;

(p) Deleted by Laws 1996, H.B.96-1102, § 5, eff. April 8, 1996.

(q) Knowingly acquiring or obtaining, or attempting to acquire or obtain, possession of a drug precursor by misrepresentation, fraud, forgery, deception, or subterfuge;

(r) Knowingly furnishing false or fraudulent material information in, or omitting any material information from, any application, report, or other document required to be kept or filed under this article, part 1 of article 42.5 of title 12, C.R.S., or part 2 of article 80 of title 27, C.R.S., or any record required to be kept by this article, part 1 of article 42.5 of title 12, C.R.S., or part 2 of article 80 of title 27, C.R.S.;

(s) Deleted by Laws 1996, H.B.96-1102, § 5, eff. April 8, 1996.

(t) The refusal of entry into any premises for any inspection authorized by this article, part 1 of article 42.5 of title 12, C.R.S., or part 2 of article 80 of title 27, C.R.S.

(2)(a) A pharmacist in an emergency situation, in lieu of a written or electronically transmitted prescription order, in good faith, may dispense up to a seventy-two-hour supply of any controlled substance listed in schedule II of part 2 of this article without a written or electronically transmitted prescription order. An “emergency situation”, as used in this paragraph (a), means a situation in which the prescribing practitioner determines:

(I) That immediate dispensing of the controlled substance is necessary for proper treatment of the intended ultimate user;

(II) That no alternative prescription drug is available, including drugs that are not controlled substances under schedule II of part 2 of this article;

(III) That it is not reasonably possible for the prescribing practitioner to provide a written prescription order to be presented to the person dispensing the controlled substance, or to electronically transmit a prescription order to the dispenser, prior to such dispensing.

(b)(I) Upon receiving an emergency oral prescription order from the practitioner, the pharmacist shall immediately reduce the prescription order to writing or an electronic format and shall write or otherwise ensure that the following language and information is recorded in the prescription record: “Authorization for emergency dispensing” and the date and time of dispensing of the oral prescription.

(II) The prescribing practitioner shall reduce the prescription order to writing or an

electronic format and shall deliver the prescription order to the pharmacist in person, by facsimile transmission as provided in paragraph (c) of this subsection (2), by mail, or by electronic transmission within seventy-two hours after prescribing the schedule II controlled substance. If delivered by mail, the envelope must be postmarked within seventy-two hours after prescribing. Upon receipt of the prescription order, the pharmacist shall maintain the prescription order with the oral prescription order that has been reduced to writing or an electronic format.

(III) The pharmacist shall notify the board if the prescribing practitioner fails to deliver the written or electronic prescription order to the pharmacist.

(c)(I) A prescription for a controlled substance listed in schedule II of part 2 of this article may be transmitted via facsimile equipment, so long as the original written, signed prescription is presented to the pharmacist for review prior to the actual dispensing of the controlled substance, except as provided in subparagraph (II) of this paragraph (c).

(II) A prescription written for a schedule II controlled substance for a hospice patient or for a resident of a long-term care facility or for the direct home administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion (infusion drug therapy) may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy or pharmacist by facsimile transmission. The practitioner or the practitioner's agent shall note on the prescription that the patient is a hospice patient or a resident in a long-term care facility or a patient receiving infusion drug therapy. The facsimile serves as the original written prescription for purposes of this section and shall be maintained as specified by the board.

(III) For the purposes of this paragraph (c):

(A) "Hospice patient" means an individual who is receiving hospice care from an entity licensed and regulated by the department of public health and environment pursuant to sections 25-1.5-103(1)(a)(I) and 25-3-101, C.R.S.

(B) "Long-term care facility" means a facility that is licensed and regulated as a skilled nursing facility or nursing care facility by the department of public health and environment pursuant to sections 25-1.5-103(1)(a)(I) and 25-3-101, C.R.S.

(3) Any person who violates paragraph (a), (b), (c), or (d) of subsection (1) of this section shall be punished as provided for in section 18-18-405 or 18-18-406.

(4) Any person who violates paragraph (e), (f), (g), (h), (i), (j), (k), (l), (m), or (n) of subsection (1) of this section or subsection (2) of this section or any other provision of this part 4 for which a penalty is not specified is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

(5) Any person who violates paragraph (o), (q), (r), or (t) of subsection (1) of this section commits a class 4 felony.

18-18-415. Fraud and deceit.

(1) (a) No person shall obtain a controlled substance or procure the administration of a controlled substance by fraud, deceit, misrepresentation, or subterfuge; or by the forgery or alteration of an order; or by the concealment of a material fact; or by the use of a false name or the giving of a false address.

(b) Information communicated to a practitioner in an effort to procure a controlled substance other than for legitimate treatment purposes or unlawfully to procure the administration of any such controlled substance shall not be deemed a privileged communication.

(c) No person shall willfully make a false statement in any order, report, or record required by this article.

(d) No person, for the purpose of obtaining a controlled substance, shall falsely assume the title of, or represent himself to be, a manufacturer, distributor, practitioner, or other person authorized by law to obtain a controlled substance.

(e) No person shall make or utter any false or forged order.

(f) No person shall affix any false or forged label to a package or receptacle containing a controlled substance.

(2) Any person who violates any provision of this section commits:

(a) A class 5 felony and shall be punished as provided in section 18-1.3-401; or

(b) A class 4 felony, if the violation is committed subsequent to a prior conviction for a violation to which this subsection (2) applies and shall be punished as provided in section 18-1.3-401.

18-18-416. Controlled substances - inducing consumption by fraudulent means.

(1) It is unlawful for any person, surreptitiously or by means of fraud, misrepresentation, suppression of truth, deception, or subterfuge, to cause any other person to unknowingly consume or receive the direct administration of any controlled substance, as defined in section 18-18-102 (5); except that nothing in this section shall diminish the scope of health care authorized by law.

(2) Any person who violates the provisions of this section commits a class 4 felony.

18-18-417. Notice of conviction.

Upon the conviction of any person for a violation of any provision of this part 4, a copy of the judgment, sentence, and opinion, if any, of the court shall be sent by the clerk of the court to the state board of pharmacy or the department of public health and environment or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business.

18-18-418. Exemptions.

(1) The provisions of section 18-18-414 shall not apply to:

(a) Agents of persons licensed under part 3 of article 22 of title 12, C.R.S., or under part 3 of this article, acting within the provisions of their licenses; or

(b) Officers or employees of appropriate agencies of federal, state, or local governments acting pursuant to their official duties; or

(c) A student who is in possession of an immediate precursor who is enrolled in a chemistry class for credit at an institution of higher education, or a work study student, a teaching assistant, a graduate assistant, or a laboratory assistant, if such student's or technician's use of the immediate precursor is for a bona fide educational purpose or research purpose and if the chemistry department of the institution of higher education otherwise possesses all the necessary licenses required by the department.

(2) All combination drugs that are exempted by regulation of the attorney general of the United States department of justice, pursuant to section 1006 (b) of Public Law 91-513 (84 Stat. 1236), known as the "Comprehensive Drug Abuse Prevention and Control Act of 1970", on or after July 1, 1981, are exempted from the provisions of part 3 of article 22 of title 12, C.R.S., and from the provisions of part 3 of this article.

(3) The provisions of this part 4 do not apply to peyote if said controlled substance is used in religious ceremonies of any bona fide religious organization.

(4) The provisions of section 12-22-318, C.R.S., shall not apply to a practitioner authorized to prescribe with respect to any controlled substance which is listed in schedule III, IV, or V of part 2 of this article and which is manufactured, received, or dispensed by him in the course of his professional practice unless he dispenses, other than by direct administration, any such controlled substance to his patients and they are charged therefor either separately or together with charges for other professional services or unless he regularly engages in dispensing any such controlled substance to his patients.

(5) The exemptions set forth in this section shall be available as a defense to any person accused of violating the provisions of section 18-18-414.

(6) It shall not be necessary for the state to negate any exemption or exception in this part 4 or in part 3 of article 22 of title 12, C.R.S., or in part 3 of this article in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this part 4. The burden of proof of any such exemption or exception is upon the person claiming it.

18-18-419. Imitation and counterfeit controlled substances act.

Sections 18-18-419 to 18-18-424 shall be known and may be cited as the "Imitation and Counterfeit Controlled Substances Act".

18-18-420. Imitation controlled substances - definitions.

As used in sections 18-18-419 to 18-18-424, unless the context otherwise requires:

(1) "Controlled substance" shall have the same meaning as set forth in section 18-18-102 (5).

(2) "Distribute" means the actual, constructive, or attempted transfer, delivery, or dispensing to another of an imitation controlled substance, with or without remuneration.

(3) "Imitation controlled substance" means a substance that is not the controlled substance that it is purported to be but which, by appearance, including color, shape, size, and markings, by representations made, and by consideration of all relevant factors as set forth in section 18-18-421, would lead a reasonable person to believe that the substance is the controlled substance that it is purported to be.

(4) "Manufacture" means the production, preparation, compounding, processing, encapsulating, packaging or repackaging, or labeling or relabeling of an imitation controlled substance.

18-18-421. Imitation controlled substances - determination - considerations.

(1) In determining whether a substance is an imitation controlled substance, the trier of fact may consider, in addition to all other relevant factors, the following:

(a) Statements by an owner or by anyone in control of the substance concerning the nature of the substance or its use or effect;

(b) Statements made to the recipient that the substance may be resold for inordinate profit which is more than the normal markup charged by legal retailers of similar pharmaceutical products;

(c) Whether the substance is packaged in a manner normally used for illicit controlled substances;

(d) Evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities;

(e) The proximity of the imitation controlled substance to any controlled substances when conduct purported to be illegal under this article is observed.

18-18-422. Imitation controlled substances - violations - penalties.

(1) (a) Except as provided in section 18-18-424, it is unlawful for any person to manufacture, distribute, or possess with intent to distribute an imitation controlled substance.

(b) Any person who violates the provisions of paragraph (a) of this subsection (1) commits:

(I) A class 5 felony; or

(II) A class 4 felony, if the violation is committed subsequent to a prior conviction for a violation of this subsection (1).

(2) (a) It is unlawful for a person eighteen years of age or over to distribute an imitation controlled substance to a person under eighteen years of age.

(b) Any person who violates the provisions of paragraph (a) of this subsection (2) commits:

(I) A class 4 felony; or

(II) A class 3 felony, if the violation is committed subsequent to a prior conviction for a violation of this subsection (2).

(3) (a) It is unlawful for any person to place in a newspaper, magazine, handbill, or other publication or to post or distribute in any public place any advertisement or solicitation which he knows will promote the distribution of imitation controlled substances.

(b) Any person who violates the provisions of paragraph (a) of this subsection (3) commits a class 1 misdemeanor.

(4) It is not a defense to a violation of this section that the defendant believed that the imitation controlled substance was a genuine controlled substance.

18-18-423. Counterfeit substances prohibited - penalty.

(1) It is unlawful for any person knowingly or intentionally to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser, other than the person who in fact manufactured, distributed, or dispensed the substance.

(2) It is unlawful for any person knowingly or intentionally to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof.

(3) Any person who violates this section commits a class 5 felony.

18-18-424. Imitation controlled substances - exceptions.

The provisions of sections 18-18-419 to 18-18-424 shall not apply to practitioners licensed, registered, or otherwise authorized under the laws of this state to possess, administer, dispense, or distribute a controlled substance, if the distribution, possession, dispensing, or administering of the imitation controlled substance is done in the lawful course of his professional practice.

18-18-425. Drug paraphernalia - legislative declaration.

(1) The general assembly hereby finds and declares that the possession, sale, manufacture, delivery, or advertisement of drug paraphernalia results in the legitimization and encouragement of the illegal use of controlled substances by making the drug culture more visible and enticing and that the ready availability of drug paraphernalia tends to promote, suggest, or increase the public acceptability of the illegal use of controlled substances. Therefore, the purposes of the provisions controlling drug paraphernalia are:

(a) To protect and promote the public peace, health, safety, and welfare by prohibiting the possession, sale, manufacture, and delivery, or advertisement, of drug paraphernalia; and

(b) To deter the use of controlled substances by controlling the drug paraphernalia associated with their use.

18-18-426. Drug paraphernalia - definitions.

As used in sections 18-18-425 to 18-18-430, unless the context otherwise requires:

(1) "Drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the laws of this state. "Drug paraphernalia" includes, but is not limited to:

(a) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances under circumstances in violation of the laws of this state;

(b) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(c) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana;

(d) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(e) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(f) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; or

(g) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:

(I) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(II) Water pipes;

(III) Carburetion tubes and devices;

(IV) Smoking and carburetion masks;

(V) Roach clips, meaning objects used to hold burning material, such as a marihuana cigarette that has become too small or too short to be held in the hand;

(VI) Miniature cocaine spoons and cocaine vials;

(VII) Chamber pipes;

(VIII) Carburetor pipes;

(IX) Electric pipes;

(X) Air-driven pipes;

(XI) Chillums;

(XII) Bongs; or

(XIII) Ice pipes or chillers.

18-18-427. Drug paraphernalia - determination - considerations.

(1) In determining whether an object is drug paraphernalia, a court, in its discretion, may consider, in addition to all other relevant factors, the following:

(a) Statements by an owner or by anyone in control of the object concerning its use;

(b) The proximity of the object to controlled substances;

(c) The existence of any residue of controlled substances on the object;

(d) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who he knows or reasonably should know, could use the object to facilitate a violation of sections 18-18-425 to 18-18-430;

(e) Instructions, oral or written, provided with the object concerning its use;

(f) Descriptive materials accompanying the object which explain or depict its use;

(g) National or local advertising concerning its use;

(h) The manner in which the object is displayed for sale;

(i) Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products;

(j) The existence and scope of legal uses for the object in the community;

(k) Expert testimony concerning its use.

(2) In the event a case brought pursuant to sections 18-18-425 to 18-18-430 is tried before a jury, the court shall hold an evidentiary hearing on issues raised pursuant to this section. Such hearing shall be conducted in camera.

18-18-428. Possession of drug paraphernalia - penalty.

(1) A person commits possession of drug paraphernalia if he possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of this state.

(2) Any person who commits possession of drug paraphernalia commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

18-18-429. Manufacture, sale, or delivery of drug paraphernalia - penalty.

Any person who sells or delivers, possesses with intent to sell or deliver, or manufactures with intent to sell or deliver equipment, products, or materials knowing, or under circumstances where one reasonably should know, that such equipment, products, or materials could be used as drug paraphernalia commits a class 2 misdemeanor.

18-18-430. Advertisement of drug paraphernalia - penalty.

Any person who places an advertisement in any newspaper, magazine, handbill, or other publication and who intends thereby to promote the sale in this state of equipment, products, or materials designed and intended for use as drug paraphernalia commits a class 2 misdemeanor.

18-18-431. Defenses.

The common law defense known as the "procuring agent defense" is not a defense to any crime in this title.

18-18-432. Drug offender public service and rehabilitation program.

(1) As used in this section, unless the context otherwise requires:

(a) "Convicted" and "conviction" mean a plea of guilty, including a plea of guilty entered pursuant to a deferred sentence under section 18-1.3-102, or a verdict of guilty by a judge or jury, and includes a plea of no contest accepted by the court.

(b) "Drug offender" means any person convicted of any offense under this article.

(c) "Useful public service" means any work which is beneficial to the public and which involves a minimum of direct supervision or other public cost. "Useful public service" does not include any work which would endanger the health or safety of a drug offender.

(2) (a) Upon conviction, each drug offender, other than an offender sentenced to the department of corrections or an offender sentenced directly to a community corrections facility, shall be sentenced by the court to pay for and complete, at a minimum, forty-eight hours of useful public service for any felony, twenty-four hours of useful public service for any misdemeanor, and sixteen hours of useful public service for any petty offense. Such useful public service shall be in addition to, and not in lieu of, any other sentence received by the drug offender. The court shall not suspend any portion of the minimum number of useful public service hours ordered. If any drug offender is sentenced to probation, whether supervised by the court or by a probation officer, the order to pay for and complete the useful public service hours shall be made a condition of probation.

(b) The provisions of this subsection (2) relating to the performance of useful public service are also applicable to any drug offender who receives a deferred prosecution in accordance with section 18-1.3-101 or who receives a deferred sentence in accordance with section 18-1.3-102 and the completion of any stipulated amount of useful public service hours to be completed by the drug offender shall be ordered by the court in accordance with the conditions of such deferred prosecution or deferred sentence as stipulated to by the prosecution and the drug offender.

(c) If not already established pursuant to law, there may be established in each judicial district in the state a useful public service program under the direction of the chief judge of the judicial district. It shall be the purpose of the useful public service program to identify and seek the cooperation of governmental entities and political subdivisions thereof and corporations organized not for profit or charitable trusts for the purpose of providing useful public service jobs; to interview and assign persons who have been ordered by the court to perform useful public service to suitable useful public service jobs; and to monitor compliance or noncompliance of such persons in performing useful public service assignments as specified in paragraph (a) of this subsection (2).

(d) Any general public liability insurance policy obtained pursuant to this subsection (2) shall be in a sum of not less than the current limit on government liability under the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

(e) For the purposes of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S., "public employee" does not include any person who is sentenced pursuant to this subsection (2) to participate in any type of useful public service.

(f) No governmental entity shall be liable under the "Workers' Compensation Act of Colorado", articles 40 to 47 of title 8, C.R.S., or under the "Colorado Employment Security Act", articles 70 to 82 of title 8, C.R.S., for any benefits on account of any person who is sentenced pursuant to this section to participate in any type of useful public

service, but nothing in this subsection (2) shall prohibit a governmental entity from electing to accept the provisions of the "Workers' Compensation Act of Colorado" by purchasing and keeping in force a policy of workers' compensation insurance covering such person.

(3) Upon a plea of guilty, including a plea of guilty entered pursuant to a deferred sentence under section 18-1.3-102 or a verdict of guilty by the court or a jury, to any offense under this article, or upon entry of a deferred prosecution pursuant to section 18-1.3-101 for any offense under this article, the court shall order the drug offender to immediately report to the sheriff's department in the county where the drug offender was charged, at which time the drug offender's fingerprints and photographs shall be taken and returned to the court, which fingerprints and photographs shall become a part of the court's official documents and records pertaining to the charges against the drug offender and the drug offender's identification in association with such charges. On any trial for a violation of any criminal law of this state, a duly authenticated copy of the record of former convictions and judgments of any court of record for any of said crimes against the drug offender named in said convictions and judgments shall be prima facie evidence of such convictions and may be used in evidence against the drug offender. Identification photographs and fingerprints that are part of the record of such former convictions and judgments of any court of record or which are part of the record at the place of the drug offender's incarceration after sentencing for any of such former convictions and judgments shall be prima facie evidence of the identity of the drug offender and may be used in evidence against such drug offender. Any drug offender who fails to immediately comply with the court's order to report to the sheriff's department, to furnish fingerprints, or to have photographs taken may be held in contempt of court.

PART 5

ENFORCEMENT AND ADMINISTRATIVE PROCEDURES

18-18-501. Administrative inspections and warrants.

(1) As used in this section, "controlled premises" means:

(a) Places where persons registered or exempted from registration requirements under this article are required to keep records; and

(b) Places including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this article are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(2) The procedure for issuance and execution of administrative inspection warrants is as follows:

(a) A judge of a state court of record within the judge's jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections of controlled premises as authorized by this article or rules adopted under this article, and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a reasonable belief that this article or the rules adopted therein have been violated, sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant.

(b) A warrant may issue only upon an affidavit of a designated officer or employee having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, the judge shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant must:

(I) State the grounds for its issuance and the name of each individual whose affidavit has been taken in support thereof;

(II) Be directed to an individual authorized under Colorado law to execute it;

(III) Command the individual to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(IV) Identify the item or types of property to be seized, if any; and

(V) Direct that it be served during normal business hours and designate the court to which it must be returned.

(c) A warrant issued pursuant to this section must be executed and returned within ten days after its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy must be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant must be made promptly, accompanied by a written inventory of any property taken. The inventory must be made in the presence of the individual executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible individual other than the individual executing the warrant. A copy of the inventory must be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(d) The judge or court who has issued a warrant shall attach to the warrant a copy of the return and all papers returnable in connection therewith and file them with the clerk of the appropriate state court for the judicial district in which the inspection was made.

(3) The board or department may make administrative inspections of controlled premises of those persons they are authorized to register under this article in accordance with the following provisions:

(a) If authorized by an administrative inspection warrant issued pursuant to subsection (2) of this section, an officer or employee designated by the board or department, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(b) If authorized by an administrative inspection warrant, an officer or employee designated by the board or department may:

(I) Inspect and copy records required by this article to be kept;

(II) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in paragraph (d) of this subsection (3), all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this article; and

(III) Inventory any stock of any controlled substance therein and obtain samples thereof.

(c) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with section 24-4-105, C.R.S., nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

(I) If the owner, operator, or agent in charge of the controlled premises consents;

(II) In situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(III) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or

(IV) In all other situations in which a warrant is not constitutionally required.

(d) An inspection authorized by this section may not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

18-18-502. Injunctions.

(1) The district courts of this state have jurisdiction to restrain or enjoin violations of this article.

(2) The defendant may demand trial by jury for an alleged violation of an injunction or restraining order under this section. Nothing in this section shall preclude any person from applying for injunctive relief from administrative inspections and warrants conducted under this article or for the immediate return of property seized under this article.

18-18-503. Cooperative arrangements and confidentiality.

(1) The board and the department shall cooperate with federal and other state agencies in discharging the board's and the department's responsibilities concerning controlled substances and in controlling the abuse of controlled substances. To this end, the department may:

(a) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;

(b) Coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels;

(c) Cooperate with the drug enforcement administration by establishing a centralized unit to accept, catalog, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within this state, and make the information available for federal, state, and local law enforcement purposes, but may not furnish the name or identity of a patient or research subject whose identity could not be obtained under subsection (3) of this section; and

(d) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

(2) Results, information, and evidence received from the drug enforcement administration relating to the regulatory functions of this article, including results of inspections conducted by it, may be relied and acted upon by the board or department in the exercise of the regulatory functions under this article.

(3) A practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the board or department, nor may the practitioner be compelled in any state or local civil, criminal, administrative, legislative, or other proceedings to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.

18-18-504. Pleadings - presumptions - liabilities.

(1) It is not necessary for the state to negate any exemption or exception in this article in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this article.

(2) No person is presumed to be the holder of an appropriate registration or order form issued under this article.

(3) No civil or criminal liability is imposed by this article upon any authorized state, county, or municipal officer, engaged in the lawful administration or enforcement of this article.

18-18-505. Judicial review.

All final determinations, findings, and conclusions of the board or department under this article are subject to judicial review pursuant to section 24-4-106, C.R.S.

18-18-506. Education and research.

(1) The department shall carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs, the department may:

(a) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(b) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(c) Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(d) Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(e) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to alleviate them; and

(f) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

(2) The department shall encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of this article, the department may:

(a) Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(b) Make studies and undertake programs of research to:

(I) Develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this article;

(II) Determine patterns of misuse and abuse of controlled substances and the social effects thereof; and

(III) Improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled substances; and

(c) Enter into contracts with public institutions of higher education and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

(3) The department may enter into contracts for educational and research activities.

(4) The department may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(5) The department may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization.

PART 6

MISCELLANEOUS

18-18-601. Pending proceedings - applicability.

(1) This article does not affect or abate a prosecution for a violation of law occurring before July 1, 1992. If the offense being prosecuted is similar to one set out in part 4 of this article, the penalties under said part 4 apply if they are less than those under prior law.

(2) This article does not affect a civil seizure, forfeiture, or injunctive proceeding commenced before July 1, 1992.

(3) All administrative proceedings pending under previous laws that are superseded by this article must be continued and brought to a final determination in accord with the laws and rules in effect before July 1, 1992. Any substance controlled under prior law but which is not listed in section 18-18-203, 18-18-204, 18-18-205, 18-18-206, or 18-18-207 is automatically controlled without further proceedings and must be included in the appropriate schedule.

(4) The board or department shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled substance prior to July 1, 1992, and who are registered or licensed by the state.

18-18-602. Continuation of rules - application to existing relationships.

Any orders and rules adopted under any law affected by this article and in effect on July 1, 1992, and not in conflict with this article continue in effect until modified, superseded, or repealed. Rights and duties that matured, penalties that were incurred, and proceedings that were begun prior to July 1, 1992, are not affected by the enactment of the "Uniform Controlled Substances Act of 1992" or the corresponding repeal of provisions in article 22 of title 12, C.R.S., and part 6 of article 5 of this title.

18-18-603. Statutes of limitations.

A civil action under this article must be commenced within seven years after the claim for relief became known or should have become known, excluding any time during which a party is out of the state or in confinement or during which criminal proceedings relating to a party are in progress.

18-18-604. Uniformity of interpretation.

To the extent that this article is uniform, the judiciary may look to decisions regarding the "Uniform Controlled Substances Act of 1990" among states enacting it, subject to rights and obligations provided under other Colorado statutes and the state constitution.

18-18-605. Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.
